REMARKS

A. The rejection under 35 U.S.C. 112, first paragraph, for lack of enablement

In the Final Office Action of November 18, 2003, claims 8-22 were rejected under 35 U.S.C. 112, first paragraph, because the specification is allegedly not enabling for combining reference pressure data with absolute pressure data to produce corrected cardiac pressure data. By this Amendment, claim 8 has been amended to remove the limitation to producing corrected cardiac pressure data. The enablement rejection is now obviated.

B. The rejection under §103 for obviousness

The claims stand rejected as being obvious from Halperin (U.S. Patent No. 5,810,735) in view of Krichen (U.S. Patent No. 6,250,309). The basis for the rejection is that Halperin discloses an external barometric pressure sensor used in combination with an absolute pressure measurement obtained by an implanted cardiac pressure sensor to produce cardiac pressure data that is telemetered to a programmer. Halperin, however, fails to disclose a communication link between the programmer and a remote data center over which cardiac pressure data is transferred. Krichen is relied upon as teaching a system of transferring information from an implanted medical device to a remote center.

Applicants have previously challenged the rejection as being improper for failing to identify any suggestion to combine the references. As Applicant has argued, Krichen only teaches the desire for an information format which can easily be interpreted and manipulated to allow for interpretation of data received as a "data dump" from an implanted medical device. Thus, the desire and any "suggestion" provided by Krichen

5

are expressly restricted to a situation wher   an implantable medical device "dumps" its information to a programmer (col. 1, lines 46-53). But, the device of Halperin is not compatible with this type of data transfer. Also, claim 8 specifies that both IMD cardiac pressure data and external pressure reference data are transmitted. Krichen nowhere contemplates two different forms of data from two different sources. Krichen might well be used to convert for transfer the cardiac pressure data obtained from only the IMD, but Krichen fails to provide any teachings or suggestion beyond that scope.

The examiner has contended that Applicants' characterization of Krichen is in error because what Applicants rely upon is actually a description of the deficiency of the prior art. The passage identified by Applicants describes that in the prior art a data dump from an IMD to the programmer is made in a format that is not easily transferred via the Internet. (Col. 1, lines 46-59). Krichen provides a converter for information received from an IMD in an initial format, "such as a memory dump format." (Col. 2, lines 52-56). Thus, Krichen operates on the basis of a data dump from the IMD just as programmers previously operated. The data dump aspect of Krichen is therefore a carry-over from what had been done before. That is, whereas the data sent on by the programmer was in the same format, Krichen teaches to convert the data to an XML format. Krichen further describes its operations on information that is a data dump from an IMD in column 12, line 29 to column 13, line 15. Accordingly, there has been no misunderstanding by Applicant of the teachings of Krichen.

Thus, as discussed previously, the reach of the teachings of Krichen in regard to what has been termed as "a connection which facilitates transfer of info between programmer and computer" does not extend to information resident on a programmer

6

that is not a "data dump" of implantable medical device information. Therefore, since Krich n's data transfer is not compatible with Halp rin, the rejections of the claims, each of which is based on Halperin in combination with Krichen, fail to satisfy the required showing that there be a suggestion or motivation to combine the references. Further, even combining the references fails to result in the claimed subject matter. Thus, as to all claims 8-22, the rejections under §103 are in error, without basis and should be withdrawn.

C. Conclusion

      Applicants submit that all pending claims are in condition for allowance and requests that a notice of allowance should be issued in due course.

Respectfully submitted,

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7